

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

DIANE CHOROSEVIC, et al.,)	
)	
Plaintiffs,)	
)	
v.)	No. 4:05-CV-2394 CAS
)	
METLIFE CHOICES, et al.,)	
)	
Defendants.)	

ORDER

This matter is before the Court on the motion of defendants United HealthCare Insurance Company (UHIC) and the United HealthCare Affiliates (UHIC Affiliates) to vacate the Court's Order of October 27, 2006 and to dismiss United HealthCare of Upstate New York, Inc. as a defendant in this litigation. Plaintiffs do not object to the motion. For the following reasons, the defendants' motion will be granted.

The Order of October 27, 2006 directed plaintiffs to file an appropriate motion for entry of default against defendant United HealthCare of Upstate New York, Inc. under Federal Rule of Civil Procedure 55(a) because the record indicated that this defendant had been served with summons and complaint, but had not filed a responsive pleading. Defendants move the Court to vacate the October 27, 2006 order because under governing New York corporate law, United HealthCare of Upstate New York, Inc. cannot be sued, and any liability it may have to plaintiffs has been assumed by United HealthCare of New York, Inc., a defendant which has appeared in this litigation as one of the UHIC Affiliate Defendants.

For good cause shown, the Court will grant the motion, vacate its Order of October 27, 2006, and dismiss United HealthCare of Upstate New York, Inc. as a defendant in this litigation.


Accordingly,

IT IS HEREBY ORDERED that the motion of defendants United HealthCare Insurance Company and the United HealthCare Affiliates to vacate the Court's Order of October 27, 2006 is **GRANTED**. [Doc. 100]

IT IS FURTHER ORDERED that the Court's Order of October 27, 2006 is **VACATED**.
[Doc. 97]

IT IS FURTHER ORDERED that defendants' motion to dismiss United HealthCare of Upstate New York, Inc. as a defendant in this litigation is **GRANTED**. [Doc. 100]

A separate order of partial dismissal will accompany this memorandum and Order.



CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 5th day of December, 2006